

1 SPECIAL ORDINANCE NO. S-~~74-11~~ 32

Special Ordinance No. S-207-79

2 AN ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE
3 TO ISSUE ITS \$1,250,000 ECONOMIC DEVELOPMENT FIRST
4 MORTGAGE REVENUE BOND (3701 ASSOCIATES PROJECT) AND
5 APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO

6 WHEREAS, the City of Fort Wayne Economic Development Com-
7 mission has been duly created by the City of Fort Wayne, Indiana,
8 and the members of the Commission have been duly appointed and
9 qualified pursuant to law; and

10 WHEREAS, the City of Fort Wayne Economic Development Com-
11 mission has prepared and filed with the Allen County Plan Com-
12 mission its report entitled "Report of the City of Fort Wayne
13 Economic Development Commission Concerning the Proposed Financing
14 of Economic Development Facilities for 3701 Associates, as agent
15 for Anthony Wayne Bank, not individually but solely in its capacity
16 as Trustee under Trust Agreement dated July 12, 1979, known as
17 Trust No. 787"; and

18 WHEREAS, the economic development facilities to be financed
19 will be held by Anthony Wayne Bank, as Trustee under the afore-
20 described Trust Agreement, Trust No. 787; and

21 WHEREAS, the beneficiaries under the aforescribed Trust
22 Agreement, Trust No. 787 are James J. Schenkel, Richard D. Shultz,
23 Michael C. Dahm, and Cooper, Brandt, Brunner, Fanger, Gaskill and
24 Hartman, a partnership, who are the partners comprising 3701
25 Associates; and

26 WHEREAS, the City Plan Commission has filed its written
27 comments concerning the proposed economic development facilities
28 and approving the same; and

29 WHEREAS, the City of Fort Wayne Economic Development Com-
30 mission, after a public hearing conducted on November 20, 1979,
31 adopted a Resolution on the same date, which Resolution has been
32 transmitted hereto, finding that the financing of certain economic
33 development facilities of 3701 Associates complies with the pur-
34 poses and provisions of I.C. 1971, 18-6-4.5, as supplemented and
35 amended (the "Act"), and that such financing will be of benefit
and to the health and welfare of the City of Fort Wayne and its citizens;

1 WHEREAS, the City of Fort Wayne Economic Development Com-
2 mission has heretofore approved and recommended to this Common
3 Council that it adopt this form of Ordinance and has approved the
4 forms of and has transmitted for approval by this Common Council
5 the Loan Agreement, Mortgage and Security Agreement, Indenture of
6 Trust and Guaranty Agreement; now, therefore,

7 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT
8 WAYNE, INDIANA, THAT:

9 SECTION 1. It is hereby found and determined that the
10 financing of the economic development facilities referred to in
11 the Loan Agreement, Mortgage and Security Agreement approved by
12 the City of Fort Wayne Economic Development Commission and pre-
13 sented to this Common Council, the issuance and sale of \$1,250,000
14 Economic Development First Mortgage Revenue Bonds of the City of
15 Fort Wayne, the loan of the net proceeds thereof to 3701 Associates
16 for the construction and equipment of such facilities, the payment
17 of principal, premium, if any, and interest on such bond from note
18 payments pursuant to the Promissory Note, executed by 3701
19 Associates as required by the Loan Agreement, Mortgage and Security
20 Agreement, and the securing of said bonds by the mortgaging of such
21 facilities to the Trustee named in the Indenture of Trust, all as
22 previously approved by the City of Fort Wayne Economic Development
23 Commission and presented to this Common Council, will be of benefit
24 to the health and welfare of the City of Fort Wayne and its citizens
25 and complies with the purposes and provisions of the Act.

26 SECTION 2. The forms of the Loan Agreement, Mortgage, and
27 Security Agreement, the Indenture of Trust and the Guaranty Agree-
28 ment approved by the City of Fort Wayne Economic Development
29 Commission are hereby approved. Such documents collectively shall
30 be considered the "Financing Agreement" referred to in the Act.
31 Such documents shall be incorporated herein by reference and shall
32 be inserted in the minutes of the Common Council and kept on file
33 by the City Clerk.

34 SECTION 3. The City of Fort Wayne hereby determines that an
35 economic development first mortgage revenue bond shall be issued

1 pursuant to the Act in the principal amount of \$1,250,000 for the
2 aforesaid purpose. Such bond shall be designated "City of Fort
3 Wayne Economic Development First Mortgage Revenue Bond (3701
4 Associates Project)" (the "Bond"), and shall be issued for the
5 purpose of procuring funds to pay the costs of construction and
6 equipment of the economic development facilities, as more partic-
7 ularly set out in the Loan Agreement, Mortgage and Security Agree-
8 ment, and the Indenture of Trust incorporated herein by reference,
9 which Bond shall be issued in the form and denomination and shall
10 be executed, dated, be subject to redemption on the dates and at
11 the prices as provided in the above described Loan Agreement,
12 Mortgage and Security Agreement, and the Indenture of Trust. The
13 Bond will be payable as to principal, premium, if any, and interest
14 from the note payments made by 3701 Associates under the Promissory
15 Note, the Loan Agreement, Mortgage and Security Agreement, and from
16 other revenues and income realized under the Loan Agreement,
17 Mortgage and Security Agreement, or as otherwise provided in the
18 above described Loan Agreement, Mortgage and Security Agreement
19 and the Indenture of Trust. The Bonds shall never constitute a
20 general obligation of, an indebtedness of, or a charge against the
21 general credit of the City of Fort Wayne. Additional bonds may be
22 authorized and issued by the City upon the terms provided in the
23 Loan Agreement, Mortgage and Security Agreement, and the Indenture
24 of Trust.

25 SECTION 4. The Mayor and the City Clerk are authorized and
26 directed to sell the Bonds to the purchasers thereof at a rate of
27 interest not to exceed 8-1/2% per annum and at a price of 100% of
28 the principal amount thereof. The Bonds shall be scheduled to
29 mature in monthly installments over a period of fifteen years, as
30 more specifically set forth in the Loan Agreement, Mortgage and
31 Security Agreement, and the Indenture of Trust. Payments of
32 principal of, premium, if any, and interest on the Bonds shall be
33 made in the manner and on the dates prescribed in the Loan Agree-
34 ment, Mortgage and Security Agreement, and the Indenture of Trust.

35 SECTION 5. The Mayor and the City Clerk be and they are
hereby authorized and directed to execute the documents con-

stituting the Financing Agreement approved herein on behalf of the City of Fort Wayne and any other document which may be necessary or desirable to consummate the transaction including, without implied limitation, the Bond authorized herein and financing statements to be utilized in connection with the perfection of security agreements. The forms of the documents constituting the Financing Agreement shall be subject to such changes as are not inconsistent with this Ordinance and as may be approved by the officers executing the same, which approval shall be conclusively evidenced by the execution of such documents by the Mayor and/or the City Clerk. The signatures of the Mayor and the City Clerk on the Bond and coupons, if any, may be facsimile signatures. The City Clerk is authorized to arrange for delivery of the Bond to the Trustee named in the Loan Agreement, Mortgage and Security Agreement, and the Indenture of Trust, for delivery to the purchasers thereof against payment therefor to such Trustee.

SECTION 6. The principal proceeds of the sale of the Bond shall be deposited with and held by the Trustee and applied by the Trustee in accordance with the Loan Agreement, Mortgage and Security Agreement, and the Indenture of Trust. The Trustee is hereby authorized to disburse funds held under the Loan Agreement, Mortgage and Security Agreement, and the Indenture of Trust on behalf of the Issuer in accordance with said Indenture.

SECTION 7. The provisions of this Ordinance and the Loan Agreement, Mortgage and Security Agreement, and the Indenture of Trust securing the Bond shall constitute binding between the City of Fort Wayne and the holder or holders of the Bond, and after the issuance of the Bond, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders as long as any portion of the Bond or the interest thereon remains unpaid.

SECTION 8. The actions of the Mayor or any other officer of the City in doing any and all acts necessary in connection with the construction and equipping of the Project and the issuance of the Bond are hereby ratified and confirmed.

1 SECTION 9. The proper officers, agents and employees of the
2 City are hereby authorized, empowered and directed to do all such
3 acts and things and to execute all such documents as may be
4 necessary in connection with the construction and equipping of the
5 Project and the issuance of the Bond.

6 SECTION 10. All Ordinances or parts thereof in conflict
7 herewith are, to the extent of such conflict, hereby repealed.

8 SECTION 11. It is hereby found and determined that all
9 official actions of this Common Council concerning and relating
10 to the passage of this Ordinance were taken in an open meeting of
11 this Common Council, and that all deliberations of this Common
12 Council and of any of its committees, if any, that resulted in
13 such official action were taken in meetings open to the public,
14 in full compliance with applicable legal requirements, including
15 I.C. 5-14-1.5-7.

16 SECTION 12. This Ordinance shall be in full force and
17 effect from and after its passage and signing by the Mayor.

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19 
20 Councilman

21 Approved as to form
22 and legality:

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Read the first time in full and on motion by V. Schmidt, seconded by

Kay, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATE: 11-27-79

Charles W. Westerman
CITY CLERK

Read the third time in full and on motion by V. Schmidt,

seconded by Kay, and duly adopted, placed on its passage.

PASSED (~~LOST~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>7</u>	<u>0</u>	_____	<u>2</u>	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>HINGA</u>	<u>✓</u>	_____	_____	_____	_____
<u>HUNTER</u>	_____	_____	_____	<u>✓</u>	_____
<u>MOSES</u>	_____	_____	_____	<u>✓</u>	_____
<u>NUCKOLS</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT, D.</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT, V.</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 12-11-79

Charles W. Westerman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

(ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE

(RESOLUTION) No. 2-207-79 on the 11th day of December, 1979.
ATTEST: (SEAL)

Charles W. Westerman
CITY CLERK

James Stier
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th

day of December, 1979, at the hour of 2:30 o'clock _____ M., E.S.T.

Charles W. Westerman
CITY CLERK

Approved and signed by me this 14th day of December, 1979,

at the hour of 10 o'clock _____

Rabab Elmhong
MAYOR

Bill No. S-79-11-32

REPORT OF THE COMMITTEE ON FINANCE

We, your Committee on Finance to whom was referred an Ordinance

AUTHORIZING THE CITY OF FORT WAYNE TO ISSUE ITS \$1,250,000

ECONOMIC DEVELOPMENT FIRST MORTGAGE REVENUE BOND (3701 ASSOCIATES

PROJECT) AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT

THERE TO

have had said Ordinance under consideration and beg leave to report back to the Common

Council that said Ordinance hlo PASS.

VIVIAN G. SCHMIDT - CHAIRMAN

WILLIAM T. HINGA - VICE CHAIRMAN

JAMES S. STIER

JOHN NUCKOLS

DONALD J. SCHMIDT

Vivian G. Schmidt

William T. Hinga

James S. Stier
John Nuckols
Donald J. Schmidt

12-11-79

CONCURRED IN

DATE CHARLES W. WESTERMAN, CITY CLERK

RESOLUTION

FORT WAYNE ECONOMIC DEVELOPMENT COMMISSION
FORT WAYNE, INDIANA

BE IT RESOLVED BY THE FORT WAYNE ECONOMIC DEVELOPMENT COMMISSION THAT:

Section 1. It finds that the proposed financing of economic development facilities referred to in the form of the Financing Agreement (as defined in the Minutes) presented to this meeting for The Classic Company, Inc. (Carl Bennett, Developer), complies with the purposes and provisions of I.C. 18-6-4.5 and will be of benefit to the health and welfare of the City of Fort Wayne and its citizens.

Section 2. The final forms of Loan Agreement, Mortgage and Indenture of Trust, and a proposed form of Ordinance for the Common Council presented to this meeting are hereby approved.

Section 3. The proposed economic development facilities will not have an adverse competitive effect on any similar facilities already under construction or in operation in the City of Fort Wayne, Indiana.

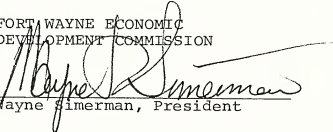
Section 4. The Secretary shall initial and then insert a copy of the forms of documents approved by this resolution in the Minute Book of this Commission.

Section 5. A copy of this Resolution and the other form of documents approved by this Resolution and the proposed form of

Ordinance shall be presented in their final form by Counsel for the Economic Development Commission or by any member of this Commission to the Clerk for presentation to the Common Council.

Adopted this 6th day of December, 1979.

FORT WAYNE ECONOMIC
DEVELOPMENT COMMISSION


Wayne Simerman, President


Secretary